

1 be it.

2 JUDGE SIPPEL: Does he send those kinds of
3 documents to Mr. Price?

4 THE WITNESS: Yes. It's a copy to him.

5 JUDGE SIPPEL: So you and Mr. Price, you're --
6 you're -- in terms of communication with Mr. Lehmkuhl, you
7 and Mr. Price are on the same wavelength. I mean, he's
8 getting all the information that you are at the same time
9 that you are.

10 THE WITNESS: I think -- I would say the majority
11 of it. I know he would get the filing and this
12 correspondence, he would get a copy.

13 JUDGE SIPPEL: I mean, in general, that's the way
14 it works.

15 THE WITNESS: Yes, sir.

16 JUDGE SIPPEL: So that if he saw something that he
17 didn't like, he could call you up and you would know about
18 it.

19 THE WITNESS: Of course. He would get the copy.

20 JUDGE SIPPEL: Now, where is Mr. Price's office
21 located?

22 THE WITNESS: He's at 575 Madison, about a mile
23 and a half or two miles away from where I am.

24 JUDGE SIPPEL: So he has to deal with you either
25 by telephone or by fax or something.

1 THE WITNESS: That's correct.

2 JUDGE SIPPEL: All right. That's all I have on
3 this point.

4 BY MR. BECKNER:

5 Q Mr. Nourain, would you please turn to what's been
6 marked as Time Warner/Cablevision Exhibit 17. It's Tab 17
7 in the notebook.

8 JUDGE SIPPEL: You know, it's 10:55 and this
9 Witness has been on the stand since 9:15. I think at least
10 we should take a ten minute recess.

11 MR. BECKNER: That's fine. I mean, this is a good
12 place to do it.

13 JUDGE SIPPEL: So we'll come back -- well, let's
14 see, we'll come back by 11:10 by that clock in the back of
15 the room.

16 (Whereupon, a brief recess was taken.)

17 JUDGE SIPPEL: Mr. Beckner, the Witness is back in
18 the witness chair.

19 MR. BECKNER: All right, Your Honor. While we
20 were in recess, I conferred with my colleague, Mr. Holt.
21 And because we spent so much time with this Witness about
22 these events that took place at the end of April and we have
23 these two documents that were produced to us yesterday that
24 appear to relate to that same time period -- and the numbers
25 have already been read into the record -- what I'd like to

1 do is ask the Witness some questions about these documents
2 today since we're already on that time period.

3 But in doing that, I want to make clear that
4 neither of us have really had a chance to go through and fit
5 these documents into the puzzle. So we might ask you at a
6 later time to have a further opportunity to examine the
7 Witness about these documents. But what I'd like to do is
8 examine him somewhat today about them if that's all right.

9 JUDGE SIPPEL: Are these -- are these documents --
10 these have not been marked?

11 MR. BECKNER: No. No. These are the ones that we
12 received yesterday morning.

13 JUDGE SIPPEL: Well, I -- I don't -- let me --
14 just let me ask Mr. Weber and Mr. Begleiter what they think
15 about this procedure. I've got my own ideas, but let's hear
16 from them first.

17 MR. WEBER: In some ways, I think it might be
18 beneficial to see if perhaps either of these documents in
19 any way are the ones that he was referring to that he
20 received.

21 MR. BEGLEITER: We have no objection, Your Honor,
22 to him showing these documents.

23 JUDGE SIPPEL: Well, why don't we do this. Why
24 don't we have them -- at least have the Reporter mark them
25 for identification and -- as exhibits. And we can let him

1 testify to the extent that he can today. And tomorrow, you
2 could bring in the appropriate copies and we could, you
3 know, have them formally received into evidence. But at
4 least his testimony would be on the identified documents.

5 MR. WEBER: Actually, Your Honor, just one of --
6 one of my co-counsel is just running to one of the offices
7 here in this building to make copies and should be back in
8 just a couple of minutes.

9 JUDGE SIPPEL: That's all right. We can do it
10 that way, too. Well, why don't we start with whatever you
11 have.

12 MR. BECKNER: Okay. All right. Thank you, Your
13 Honor. As I say, we'll -- as soon as Mr. Keam returns with
14 the copies, we'll talk about those -- those two exhibits.

15 JUDGE SIPPEL: Well, if you want, you can start
16 with what you have. I mean, you can put them in front of
17 him and start asking him questions about it. And then we
18 can formally identify them when we get them marked and get
19 them in.

20 MR. BECKNER: All right. I think we have a
21 shortage of copies. The ones that I have here have got my
22 markings on them. I don't think we want him to see that.
23 But I was going to ask him about what's already been marked
24 as Exhibit 17.

25 JUDGE SIPPEL: All right. Then we'll go back to

1 17.

2 MR. BECKNER: So we won't -- we won't waste any
3 time here while Mr. Keam makes copies.

4 JUDGE SIPPEL: This is TW/CV 17, is that correct?

5 MR. BECKNER: That's correct. It's exhibit -- Tab
6 17 in the large notebook, Mr. Nourain.

7 JUDGE SIPPEL: And he has it in front of him.

8 MR. BECKNER: Okay.

9 BY MR. BECKNER:

10 Q This is a -- a copy of STA requests that were
11 filed with the Commission on May 4th. And, Mr. Nourain, I
12 want to ask you whether or not you recall having seen these
13 before today or before your deposition was taken in this
14 proceeding.

15 A Yes, I have seen this.

16 Q Excuse me?

17 A I have seen these.

18 Q Okay. When did you -- when did you first see
19 these?

20 A Before May 3rd, 1995.

21 Q Before May 3rd.

22 A Yes.

23 Q Okay. Can you turn to page 006 of the exhibit?

24 A Yes, I will.

25 Q That's the signature page, your signature and the

1 date, May 3rd.

2 A Yes.

3 Q Did you actually sign this on May 3rd?

4 A No. That was one of the forms that was signed on
5 a bunch before and was sent to Mike Lehmkuhl.

6 Q Mike -- okay, fine. And I notice there are
7 other -- thanks very much -- there are other -- in this
8 exhibit, there are other pages that have your signature on
9 them of the date of May 3rd. Are all of those pages that
10 you signed in blank previously? I'm looking at page --

11 A Yes, could you read the pages for me?

12 Q Sure. 011.

13 A Yes.

14 JUDGE SIPPEL: Do you have it? Do you have 011?

15 THE WITNESS: Yes, I have it. I just -- you're
16 talking from 011 to where my signatures are.

17 BY MR. BECKNER:

18 Q Page 011 is another signature page.

19 JUDGE SIPPEL: All right. Hold it just a second.
20 I'm helping him get there.

21 MR. BECKNER: Thank you, Your Honor.

22 THE WITNESS: Oh, yes. I'm sorry. Yes.

23 JUDGE SIPPEL: He's at 011. You can ask him the
24 question.

25 MR. BECKNER: Okay.

1 BY MR. BECKNER:

2 Q Okay. The question is did you sign this page,
3 011, on May 3rd or did you sign this in blank at some
4 earlier time?

5 A This one I signed on a blank before May.

6 Q Okay. Now, if you would turn to page 019, that's
7 another signature page. And I'd like you to tell us whether
8 you signed that one on May 3rd or at some other earlier
9 time.

10 A Yes, same as the others. I -- those are the forms
11 that I signed previously a while back.

12 Q Okay. All right. The next signature page that I
13 find is at 025. If you'll just take a look at that one and
14 tell us if you signed that one early or on May 3rd.

15 A That's early, as well.

16 Q All right. And the next page that I find --
17 signature page that I find is 031.

18 A Before May 3rd.

19 Q Okay. And 039 is the next one.

20 A Yes, before May 3rd.

21 Q 045 is the next one.

22 A Before May 3rd.

23 Q 050?

24 A Before May 3rd.

25 Q Okay. I think that's all of them. Now, are you

1 saying that you reviewed this document before it was filed?

2 Is that --

3 A That's correct.

4 Q Okay. Now, did you return the entire thing or did
5 Mr. Lehmkuhl just send up portions of it?

6 A No, I reviewed the entire thing.

7 Q Okay. And how did -- did he send it to you by
8 overnight delivery, Federal Express or something like that?

9 A I don't recall how he sent it to me. But he
10 either faxed it to me or sent it overnight.

11 Q Okay. And you looked at the whole thing to make
12 sure it was correct?

13 A Yes, after April 28th, there hasn't been sent
14 anything out that I haven't reviewed.

15 Q Okay. And so even though you had already -- this
16 document includes these pages that you signed in blank
17 earlier, you telephoned or communicated with Mr. Lehmkuhl
18 and told him it was okay to file this document on May 4th?

19 A I never said file it on May 4th or any other date.
20 As part of our conversation, I told him try to file STAs for
21 everything. And since he had these signatures, he -- he
22 just put all the documents together and sent them back to me
23 with my original signature. You have the copy of it.

24 Q Right.

25 A But when I got it, that was the actual original

1 signature. So simply all we did is that rather than me
2 signing it again and sending it to him, he already had some
3 of those signatures. He just filled out, quickly sent it to
4 me and I reviewed it, sent it back to him.

5 Q And when you sent it back to him, you told him it
6 was okay to file?

7 A Yes.

8 Q Okay. That's fine. And then he filed it?

9 A Yes.

10 Q Okay. And did he send you a copy of -- of any of
11 the STA requests after it may have been filed just --

12 A Everything that he filed, within 24 hours, I got
13 it from Federal Express as of the date of April 28.

14 Q Okay. So -- so he sent you back a file copy after
15 he filed this with the FCC?

16 A Yes.

17 Q Okay. Fine. Do you recall on what date you
18 actually reviewed this -- this STA -- these STA requests?
19 Was it like May 3rd, May 2nd? Was it just a day or so
20 before it was filed, do you know?

21 A Are you asking for an exact date?

22 Q If you can remember, yes.

23 A I don't remember. It's two years ago.

24 Q Okay.

25 A But I know it's within a day or so -- from April

1 28th was a Friday as Your Honor pointed out. April 30th is
2 Saturday. I don't know when is 1st of May -- it's Monday.
3 So the next day is -- you're talking about two days.

4 Q Right. So --

5 A It's irrelevant. We did that. He sent it
6 overnight. I reviewed it and sent it back. You're talking
7 about Monday or Tuesday. So pick your day.

8 Q In any event, you reviewed it after April 28th?

9 A That is -- yes, after -- no, no, no. Let me back
10 up. I reviewed that at May 3rd because that's when he sent
11 that to me, when it was -- you know, when he typed that date
12 on there.

13 Q Okay.

14 A That's the date I reviewed it.

15 Q Okay. Good. So we are able to get an exact date
16 this time.

17 A And April 28th to May 3rd, I would look at it as
18 one business day.

19 MR. BECKNER: Okay. Now, Your Honor, what I have
20 here are multiple copies of these two documents that we've
21 been discussing. And I'd like to bring a couple of them up
22 to the Court Reporter to be marked.

23 JUDGE SIPPEL: Well, why don't you -- yes, why
24 don't you give two to the Reporter to mark. And then after
25 he marks them, we can give them to the Witness. We can get

1 it into evidence. And then you can take your copy back and
2 photocopy and distribute it around. How will that be?

3 MR. BECKNER: That's fine. I mean, I have extra
4 copies here that Mr. Keam made for us.

5 JUDGE SIPPEL: Do you have enough copies to do all
6 this?

7 MR. BECKNER: I think so.

8 MR. HOLT: I think that these are part of the
9 documents that we produced on Monday --

10 JUDGE SIPPEL: All right. Give the Reporter --
11 place two with the Reporter.

12 MR. BECKNER: All right. Here's two. Your Honor,
13 if I could approach to give you a copy.

14 JUDGE SIPPEL: Certainly. Thank you. I would
15 guess that we'll start by -- which one do you want to
16 introduce first and what number are you going to give it?

17 MR. BECKNER: All right. The first exhibit that
18 I'd like to introduce is the one that's got production
19 number 17311 on the first page and 17312 on the second page.
20 It appears to be the memorandum from Behrooz Nourain to
21 Edward Milstein dated April 26th, 1995.

22 MR. KEAM: Mr. Beckner, there are two -- two
23 identical documents -- two sets of the identical documents
24 produced. And I think I copied the second version which is
25 Bates number 017360, 017361. But I believe that was exactly

1 the same document as you have here.

2 MR. BECKNER: Okay. Thank you, Mr. Keam. That's
3 correct. I'll correct the record here. The document that's
4 being marked as an exhibit has production number 17360 on
5 the first page, 17361 on the second page. And that is a --
6 or it appears to be a memorandum dated April 26th, 1995 from
7 Behrooz Nourain to Edward Milstein.

8 JUDGE SIPPEL: That's the two page memorandum with
9 the subject of path licensing, correct?

10 MR. BECKNER: Correct.

11 JUDGE SIPPEL: All right. Let's have that marked
12 for identification as -- and the new number is.

13 MR. BECKNER: And then that should be Exhibit 35 -
14 - Time Warner/Cablevision Exhibit 35.

15 JUDGE SIPPEL: TW/CV Number 35 for identification.

16 (The exhibit referred to was
17 marked for identification as
18 TW/CV Exhibit Number 35.)

19 Is there any objection to its being received into
20 evidence?

21 MR. BEGLEITER: None, Your Honor.

22 JUDGE SIPPEL: Then it's received in evidence as
23 TW/CV 35.

24 //

25 //

1 (The exhibit referred to,
2 previously marked for
3 identification as TW/CV
4 Exhibit Number 35, was
5 received in evidence.)

6 Next document. Do you want to identify this next
7 document?

8 MR. BECKNER: Yes. I was just giving the Reporter
9 a chance to do his stamp. Okay. The second document which
10 would be TW/CV Exhibit 36 is also a -- is a three page
11 document. And it has production numbers 017317 on the first
12 page, 017318 on the second page, 017319 on the third page.
13 And it appears to be a copy of a letter dated April 24, 1995
14 from Michael Hayden, chief of the Microwave Branch of the
15 FCC, addressed to Liberty Cable Co., Inc. And there are two
16 copies of that letter stapled together. And then the third
17 page appears to be a fax transmittal form.

18 JUDGE SIPPEL: All right. The Reporter will mark
19 that document for identification as TW/CV Number 36.

20 (The exhibit referred to was
21 marked for identification as
22 TW/CV Exhibit Number 36.)

23 Is there some reason why there's two copies of the
24 same letter? There seems to be.

25 MR. KEAM: Your Honor, it was produced to us

1 stapled -- three documents were stapled to it. So we had
2 the same problem yesterday, so --

3 MR. SPITZER: That's how it was in the file, Your
4 Honor. They appear to be identical copies, but in the
5 fullness of discovery --

6 JUDGE SIPPEL: All right. We can deal with that.
7 Any objection to its being received into evidence?

8 MR. SPITZER: None, Your Honor.

9 JUDGE SIPPEL: It's received in evidence as TW/CV
10 Number 36.

11 (The exhibit referred to,
12 previously marked for
13 identification as TW/CV
14 Exhibit Number 36, was
15 received in evidence.)

16 Now, the Witness has before him the copy -- the
17 Reporter's copy of Number 35. Do you want to start with
18 that?

19 MR. BECKNER: Yes, I do, Your Honor. One second
20 if I might. Okay.

21 BY MR. BECKNER:

22 Q All right. Mr. Nourain, I'd like you to take a
23 look at what's been placed in front of you as TW/CV Exhibit
24 Number 35. First, can you tell me whether or not you recall
25 having written this memorandum on or about April 26th, 1995?

1 A The only thing I could recall now is that the memo
2 in front of me I don't exactly recall that I wrote it. But
3 I'm assuming I did.

4 Q Okay. I mean, do you recall writing any kind of
5 memorandum to Edward Milstein in the last week of April of
6 '95 on this subject?

7 A This would be the one.

8 Q Excuse me?

9 A Yes. This would be the letter that I wrote, yes.

10 Q Okay. And did you in fact send it to Mr.
11 Milstein?

12 A I'm sorry. Could you repeat the question?

13 Q Did you in fact send a copy of this document to
14 Mr. Milstein -- Mr. Edward Milstein?

15 JUDGE SIPPEL: This is Number 35.

16 MR. BECKNER: Number 35.

17 THE WITNESS: My only answer is if I wrote it, I
18 must have sent it. But I don't really recall right now that
19 I exactly sent it to him. But I'm sure I did.

20 BY MR. BECKNER:

21 Q Okay. Let me just ask you a couple of other
22 things about the document itself. There's an indicated CC
23 types to John Tenety and Anthony Ontiveros. And then in
24 handwriting above those names, Peter Price. Is that your
25 handwriting?

1 A That's my handwriting, yes.

2 Q Okay. Do you type your own memoranda or do you
3 have a secretary or somebody who does that for you?

4 A Secretary does that or receptionist.

5 Q Okay. Was this document that we have here,
6 Exhibit 35, was it -- is it perhaps a draft that reflects
7 some editing on your part?

8 A It very well may look like it could be one, yes.

9 Q Okay. So perhaps there was a final version of
10 this document that was sent to Mr. Milstein that doesn't
11 have handwriting on it like this does?

12 A I can't answer you that. I don't know.

13 Q Okay. You just don't know. There are some --
14 some of the addresses here are stricken through and a
15 notation, "LIC", is beside them. And then there's an
16 address added at the bottom of the first page in
17 handwriting. Do you recognize any of that handwriting as
18 being yours?

19 A Those handwritings are mine, yes.

20 Q Okay. There's also some corrections to some of
21 the addresses; what's typed as 35 West End Avenue is --
22 appears to be corrected to 55 West End Avenue. Is that your
23 corrections?

24 A Yes, that's my handwriting.

25 Q Okay. And the same question. 441 East -- I can't

1 see what it was typed, but it's now corrected as 441 East
2 Ninety-second Street. Is that your correction?

3 A Yes.

4 Q Okay. Now, I want to ask you about -- do you
5 recall what led you to write this memorandum to Mr.
6 Milstein?

7 A This happened after our conversation that we had,
8 the meeting from what I recall. That was after the meeting
9 that we had. And I discussed with them about -- after we
10 found out and we had the meeting with Mr. Price and Mr.
11 Milstein about some of the STAs and emission designators.
12 So this letter came about after that.

13 Q Now, the memorandum says, "reference to our phone
14 conversation." Was there a phone conversation with Mr.
15 Milstein besides the meeting?

16 A I don't recall right now. But it has happened
17 that at -- sometimes that if he wanted something, he would
18 call me and say that did you send this or not. And I'm
19 assuming -- I'm just -- this is just a pure assumption --
20 that after the meeting, I told him that we are going to get
21 an STA. And he called later on and said that did you send
22 the STA. This would be just probably to make sure that I --
23 I did -- I did go ahead and apply for the STA and he wanted
24 to make sure that I did that. Because when we talked about
25 the whole issue, it wasn't on the phone. It was during that

1 meeting.

2 Q It was in the meeting, okay.

3 A Yes. So that -- just the way I could gather from
4 this memo, that he was just going to make sure that I did
5 that afterwards. And I informed by way of letter. That was
6 that conversation. But I don't recall. At this point, two
7 years after that, I don't remember.

8 Q Now, the list of paths here, was that -- was that
9 something that you generated yourself? I mean, that wasn't
10 a list that someone gave you. You came up with the list
11 that you have here?

12 A This list is after my discussion with Mike
13 Lehmkuhl that I explained, you know, a little while back
14 about the STAs that hasn't been applied.

15 Q Now, where there's an address that's stricken
16 through -- for example, 30 Waterside is stricken through and
17 there's the words -- the letters, "LIC", on the side.
18 What -- do you remember what you meant to do when you were
19 doing that?

20 A Only at the -- now that I'm reading it, the only
21 thing I can think of would be that those buildings might
22 have been licensed and they didn't need to have an STA be
23 applied against them.

24 Q So that you think that LIC meant licensed, that it
25 was licensed --

1 A I'm sure of that because I use that LIC
2 termination.

3 Q Now, I want you just to compare this with a couple
4 of other documents that we've already looked at. Exhibit 34
5 which is the last exhibit in the big notebook.

6 A Yes, I have both of them in front of me.

7 Q Okay. If you'll look at the attachment to Exhibit
8 34, the attachment to the memo which is the list of
9 addresses pending application status --

10 A Yes.

11 Q -- for instance, at the very bottom of the first
12 page, they have -- there's a path named 30 Waterside. And
13 under status, it's G.

14 A Yes.

15 Q Did you understand that to mean that it was
16 granted?

17 A That's correct.

18 Q Okay. So perhaps -- do you think that looking at
19 these two documents, that what you did is that you revised
20 the typed version of this memorandum, Exhibit 35, which you
21 wrote on April 26th -- that you revised that in light of the
22 information that Lehmkuhl gave you on April 28th?

23 A Well, that's one version to describe that. The
24 other one would be that April of 26 memo was the one I
25 generated. Then I find out it was granted, the license I

1 got that. Then I struck that out. And when -- after our
2 discussion with Lehmkuhl. Don't forget, my discussion with
3 Mike Lehmkuhl was -- I would say for the -- because this
4 argument was before 26 or around that time. So it could be
5 that after I talk with him, we went over the projects. I
6 knew that those that I struck out were licensed. That's why
7 I struck it out on the 26th.

8 And then on the 28th when he sent all those
9 documents, it concurred with me. That would be one. But I
10 don't deny what you're saying is correct, too, because,
11 again, there is no other way I didn't sign -- or I didn't
12 date the time that I did that. It could be that at some
13 point I had that letter and I went over it. So the both
14 arguments is correct.

15 Q Okay.

16 A I'm just --

17 Q Well, I understand.

18 A I'm just bringing what I can think of those two
19 ways.

20 Q Now, your -- was the -- let me strike that. The
21 next paragraph says, "In order to be able to turn on current
22 customers." What did you mean by a current customer? Who
23 is a current customer?

24 A Any building where we had a contract to provide
25 service to them or that was current customer.

1 Q So you -- so a building that you had a contract,
2 well, if you had a contract but you hadn't installed service
3 in that building, would you still call that a current
4 customer?

5 A Yes. To me current customer is as soon as someone
6 tells me go ahead and start the study and do that. It's the
7 preliminary before even the contract gets there. I'll look
8 at it as a customer.

9 Q Let's take a look at some of these addresses in
10 Exhibit 34 -- Time Warner/Cablevision Exhibit 30. You see -
11 - you have Exhibit 30 in front of you?

12 A Yes, I do.

13 Q Okay.

14 A Page 001?

15 Q Yes.

16 A Okay.

17 Q Now, according to Exhibit 30, for example, 114
18 East Seventy-second Street which I see here, it says Liberty
19 began service on January 30, 1995. So wouldn't it be
20 correct to say that as of April 26th, 1995, that building
21 was a current customer because it had been receiving
22 Liberty's service? Wouldn't that be true?

23 A That's correct.

24 Q Okay. And 433 East Fifty-sixth Street which
25 you've stricken through here, according to this Exhibit 30,

1 you began providing service there on July 11th, 1994. So
2 they also were a current customer in that that they were
3 actually had been receiving service.

4 A That's correct.

5 Q Okay.

6 MR. BEGLEITER: Actually you read that wrong, Mr.
7 Beckner. It's 12/27/94. It doesn't change anything.

8 MR. BECKNER: I stand corrected.

9 THE WITNESS: Yes, 433 you said.

10 MR. BECKNER: I stand corrected, Mr. Begleiter.

11 BY MR. BECKNER:

12 Q Now, I'm not going to take you through every one
13 of these -- the ones in this list. But I would like you
14 just to simply look at Exhibit 35 which we've just marked
15 and Exhibit 30 and tell me whether or not in fact as of
16 April 26th, these -- these buildings here were current
17 customers in the sense that they were actually receiving the
18 service. It wasn't just that they were going to receive it.
19 They were receiving it.

20 A Are you asking that question?

21 Q Yes. Isn't that true?

22 A I would do that in just a second. I would go over
23 the last -- the date and see the date of activation and
24 compare with mine. And if it is before the 26th, they were
25 current, yes.

1 JUDGE SIPPEL: So what you're comparing then is
2 the --

3 THE WITNESS: I'm comparing the date that the
4 service began.

5 JUDGE SIPPEL: Which is on Exhibit 30.

6 THE WITNESS: 30.

7 JUDGE SIPPEL: Which is on Number 35. Let's go
8 off the record while you do that.

9 (Off the record.)

10 JUDGE SIPPEL: Go ahead. You tell us -- you do it
11 your way. What's the first one you're referring to?

12 THE WITNESS: 524 East Seventy-second.

13 JUDGE SIPPEL: And what's your answer with respect
14 to the question?

15 THE WITNESS: It was activated at the time of
16 April 26th.

17 JUDGE SIPPEL: All right.

18 THE WITNESS: Then with the next one, 114 East
19 Seventy-second -- do you want me to go over the one that I
20 crossed out, as well?

21 JUDGE SIPPEL: Mr. Beckner?

22 MR. BECKNER: Yes.

23 THE WITNESS: Okay. 433, yes. 30 Waterside, yes.
24 639, yes. 55. And the other appendix is -- and your 30, it
25 is 35, so that's yes. And mine is 55.

1 JUDGE SIPPEL: So that's a West End Avenue
2 property?

3 THE WITNESS: That's correct. 11 Riverside, that
4 is -- that is not in there. So I can't make comments about
5 it. So that could be -- if it wasn't activated, that would
6 be the one that's part of the current project. The two
7 NYUs, yes. On Number 30 is 564 First Avenue and 545 First
8 Avenue. Those are the NYU residents. So those are
9 activated. 200 East Thirty-second was activated. 567 Fifth
10 Avenue, yes, which is 767 is activated. 441 East Ninety-
11 second Street, it's activated. 3755 Henry Hudson Parkway,
12 that's the one that's not in that list. 2727 Palisades, two
13 days before that was activated. 767 -- I'm sorry, 25 West
14 Fifty-fourth Street was activated. I'll go over my
15 handwriting to you. 335 Madison Avenue, that I don't see.
16 6 East Forty-fourth Street was activated ten days ago -- ten
17 days before that. And 16 West Sixteenth Street, yes, it was
18 activated. So it looks like two of them -- two or so
19 buildings was not, and the others were.

20 BY MR. BECKNER:

21 Q Everything else but the two you identified --

22 A They were, yes.

23 Q -- were already -- the customers in the building
24 were receiving service. The microwave path was turned on.
25 Correct?

1 A That's correct.

2 Q Now, this list -- did the -- did this list come
3 from -- these addresses and so on come from someone besides
4 yourself?

5 A Which list are you referring to?

6 Q The list that's on Exhibit 35 here. I'm sorry. I
7 should have been clear. Exhibit 35, that's the one that we
8 just handed you that's not in the notebook.

9 A Those lists came after, I've said, my conversation
10 -- my finding around that April 24, 25 which I found out
11 about the whole process and talking to Mike Lehmkuhl. Yes,
12 those are all the ones.

13 Q But I'm trying to understand, the actual addresses
14 here that were typed up, you apparently needed to correct
15 some of the numbers.

16 A Oh, yes.

17 Q And the reason I was asking you this was that --
18 did the typed addresses come from someone other than
19 yourself and then you had to correct them?

20 A No, there's an explanation to that. Take a look
21 at 35 West End Avenue. When I started to work on that
22 project, that building was under construction. They had
23 another address to it at the time that we started to do the
24 coordination, although the location was the same -- the
25 geographic coordination all the same. But after it was